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7 **UNITED STATES DISTRICT COURT**
8 EASTERN DISTRICT OF CALIFORNIA
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10 ADAM JAY STONE,

Case No. 1:21-cv-01461-ADA-SAB (PC)

11 Plaintiff,

ORDER DENYING PLAINTIFF'S MOTION
FOR ENTRY OF DEFAULT

12 v.

(ECF No. 50)

13 C. PFEIFFER, et al.,

14 Defendants.

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16 Plaintiff Adam Jay Stone is proceeding pro se in this civil rights action filed pursuant to
17 42 U.S.C. § 1983.

18 Currently before the Court is Plaintiff's motion for entry of default, filed October 27,
19 2022.

20 Entry of default is appropriate as to any party against whom a judgment for affirmative
21 relief is sought that has failed to plead or otherwise defend as provided by the Federal Rules of
22 Civil Procedure and where that failure is shown by affidavit or otherwise. See Fed. R. Civ. P.
23 55(a). Rule 12 of the Federal Rules of Civil Procedure provides, “[a] defendant must serve an
24 answer within 21 days after being served with the summons and complaint; or if it has timely
25 waived service under Rule 4(d), within 60 days after the request for a waiver was sent.” Fed. R.
26 Civ. P. 12(a)(1)(A). Under Rule 4(d), a defendant may waive service of a summons by signing
27 and returning a waiver of service. Fed. R. Civ. P. 4(d). If a defendant fails to plead or otherwise
28 defend an action after being properly served with a summons and complaint, a default judgment

1 may be entered pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. Fed. R. Civ. P.
2 55(a).

3 Here, Defendants filed a timely answer to the operative complaint (after requesting and
4 receiving two extensions of time), on October 27, 2022. Because Defendants filed a timely
5 answer to the complaint there is no basis for entry of default and Plaintiff's motion is DENIED.

6 IT IS SO ORDERED.
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8 Dated: October 31, 2022


UNITED STATES MAGISTRATE JUDGE

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